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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,182	07/06/2001	Jean-Louis H. Gueret	5725.0701	9798
22852	7590	03/22/2006	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			DEVORE, PETER T	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/899,182	Applicant(s) GUERET, JEAN-LOUIS H.	
	Examiner Peter T. deVore	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-335 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-335 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Oath/Declaration

The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following: the declaration incorrectly identifies the Application number of the present Application as 09/889,182.

Upon action on the merits of the present Application, all pending claims will be rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 for the reason set forth above unless/until the defective declaration is cured. See 37 CFR 1.175.

Election/Restrictions

As a first matter, note that all of the newly added independent claims are broader in at least one aspect than all of the originally patented claims because they are all silent as to the reentrant angle of the two secant faces.

This application contains claims directed to the following patentably distinct sets of species.

1st set:

Species 1A, drawn to a species wherein the “another” notch is the “second” notch,

Species 1B, drawn to a species wherein the “another” notch is not the “second” notch.

Species 1A and 1B are independent or distinct because the product application properties of brushes are highly dependent on the spatial relationships of the notches.

All of the originally patented claims are generic to this feature, and all of the newly added independent claims are also generic to this feature. Therefore, Applicant is required to elect one of Species 1A and 1B, and those claims which are directed to the non-elected species and which depend from a newly added independent claim will be withdrawn from consideration because the newly added independent claims are all broader in at least one aspect than all of the originally patented claims as discussed supra. Specifically, claims 89, 132, 203, and 266 correspond to Species 1A and depend from newly added independent claims, and claims 90, 133, 204, and 267 correspond to Species 1B and depend from newly added independent claims.

2nd set:

Species 2A, drawn to a species wherein the faces of the notch extend from one end of the brush to the other,

Species 2B, drawn to a species wherein the faces of the notch extend along only a part of a length of the brush.

Species 2A and 2B are independent or distinct because the product application properties of brushes are highly dependent on the dimensions of the notches.

Of the originally patented claims, only claim 4 speaks to this feature; claim 4 is specific to Species 2A. Therefore, Applicant has elected Species 2A by original presentation, and all of the claims which are specific to Species 2B and which depend from a newly added independent claim, specifically claims 98, 141, 177, 210, and 240, are withdrawn from consideration because the newly added independent claims are all

Art Unit: 3751

broader in at least one aspect than all of the originally patented claims as discussed supra.

3rd set:

Species 3A, drawn to a species wherein the notch back is convex,

Species 3B, drawn to a species wherein the notch back is planar.

Species 3A and 3B are independent or distinct because the product application properties of brushes are highly dependent on the shapes of the notches.

Of the originally patented claims, only claim 19 speaks to this feature; claim 19 is specific to Species 3A. Therefore, Applicant has elected Species 3A by original presentation, and all of the claims which are specific to Species 3B and which depend from a newly added independent claim, specifically claims 104, 147, 182, 215, 245, and 278 are withdrawn from consideration because the newly added independent claims are all broader in at least one aspect than all of the originally patented claims as discussed supra.

4th set:

Species 4A, drawn to the brush shape shown in Figures 1A, 2, and 3,

Species 4B, drawn to the brush shape shown in Figure 6,

Species 4C, drawn to the brush shape shown in Figure 7,

Species 4D, drawn to the brush shape shown in Figure 8,

Species 4E, drawn to the brush shape shown in Figure 9,

Species 4F, drawn to the brush shape shown in Figure 10.

Species 4A-4F are independent or distinct because the product application properties of brushes are highly dependent on the shapes of the brushes.

Of the originally patented claims, only claim 10 speaks to this feature; claim 10 is specific to Species 4A. Therefore, Applicant has elected Species 4A by original presentation, and all of the claims which are specific to any of Species 4B-4F and which depend from a newly added independent claim, specifically claims 108, 151, 186, 219, 249, 282, and 314-319 are withdrawn from consideration because the newly added independent claims are all broader in at least one aspect than all of the originally patented claims as discussed supra.

5th set:

Species 5A, drawn to a species wherein the trough line is straight,

Species 5B, drawn to a species wherein the trough line is curved.

Species 5A and 5B are independent or distinct because the product application properties of brushes are highly dependent on the shapes of the trough lines.

Of the originally patented claims, only claim 15 speaks to this feature; claim 15 is specific to Species 5A. Therefore, Applicant has elected Species 5A by original presentation, and all of the claims which are specific to Species 5B and which depend from a newly added independent claim, specifically claims 115, 158, 191, 224, 254, and 287 are withdrawn from consideration because the newly added independent claims are all broader in at least one aspect than all of the originally patented claims as discussed supra.

6th set:

Species 6A, drawn to a species wherein the peak ridge is straight,

Species 6B, drawn to a species wherein the peak ridge is curved.

Species 6A and 6B are independent or distinct because the product application properties of brushes are highly dependent on the shapes of the peak ridges.

Of the originally patented claims, only claim 18 speaks to this feature; claim 18 is specific to Species 6A. Therefore, Applicant has elected Species 6A by original presentation, and all of the claims which are specific to Species 6B and which depend from a newly added independent claim, specifically claims 118, 119, 161, 162, 193, 226, 256, and 289 are withdrawn from consideration because the newly added independent claims are all broader in at least one aspect than all of the originally patented claims as discussed supra.

Accordingly, claims 98, 104, 108, 115, 118, 119, 141, 147, 151, 158, 161, 162, 177, 182, 186, 191, 193, 210, 215, 219, 224, 226, 240, 245, 249, 254, 256, 278, 282, 287, 289, and 314-319 are withdrawn from consideration as being directed to an invention non-elected by original presentation, and upon Applicant's election of Species 1A or Species 1B, additional claims will be withdrawn from consideration as being drawn to a non-elected invention as discussed supra and following such election the Examiner will issue an Office Action on the merits of the claims.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter T. deVore whose telephone number is (571) 272-4884. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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